



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 661

IN THE MATTER
OF
THOMAS LUSSIER

DISPOSITION AGREEMENT

This Disposition Agreement is entered into between the State Ethics Commission and Thomas Lussier pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On March 1, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Lussier. The Commission has concluded its inquiry and, on June 25, 2002, found reasonable cause to believe that Lussier violated G.L. c. 268A.

The Commission and Lussier now agree to the following findings of fact and conclusions of law:

-Findings of Fact-

1. At all relevant times, Lussier was employed as the executive director for the Massachusetts Teachers Retirement Board ("MTRB"). As such, he was a state employee as that term is defined in G.L. c. 268A, §1(q).
2. In January 1995, the MTRB secured a Corporate American Express Account. Lussier, as executive director, had access to that account.
3. Between 1997 and early 2001, Lussier charged both business and personal expenses on the corporate credit card. At all times during which Lussier charged personal expenses on the MTRB corporate credit card, he also incurred legitimate business expenses on behalf of the MTRB for which he was entitled to, but did not seek, reimbursement. The amount of the unreimbursed business expenses, however, was significantly less than the charged personal expenses (as is detailed below).
4. In February 2001, the media reported that Lussier used the MTRB corporate credit card to charge thousand of dollars in personal items. Until that time, Lussier had not made an accounting or reimbursed the MTRB for his personal expenses charged to the MTRB corporate credit card.
5. After the media reported on the matter, Lussier made an accounting of and reimbursed the MTRB \$3,012.77 for such personal expenses, plus \$504.50 in interest for a total of \$3,517.27.
6. At about this same time, the Office of the State Auditor began investigating this matter. In a January 2002 report, the State Auditor determined that Lussier's personal expenses charged to the MTRB card plus interest were \$3,642.39. Lussier reimbursed the MTRB the \$114.62 difference.

7. Lussier acknowledges that he used the MTRB corporate credit card for personal use, but asserts that he anticipated that any personal expenses would be offset by the eligible business expenses that he had not submitted for reimbursement, and that he intended to make a complete reconciliation. Lussier asserts that he never intended to allow personal expenses to exceed business expenses for which he was rightfully entitled through reimbursements.¹ Notwithstanding Lussier's assertions, his business expenses fell more than \$3,000 short of offsetting his charged personal expenses. Lussier's use of the MTRB corporate credit card for personal expenditures without reimbursing the MTRB until after the matter was reported in the media was not justified as the expenditures were not legitimate business purchases.

8. Lussier has since made a full reimbursement to the MTRB. In addition, the MTRB has eliminated agency corporate credit cards.

Conclusions of Law-

9. General Laws chapter 268A, 23(b)(2) prohibits a state employee from knowingly, or with reason to know, using or attempting to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

10. As executive director, Lussier had authorization to use the MTRB corporate credit card for legitimate MTRB purchases.

11. The use of the MTRB corporate credit card was a privilege.

12. The use of the MTRB corporate credit card for personal purchases not related to MTRB business and not timely reimbursed was unwarranted.

13. Where the expenditures exceeded \$50 (individually or in the aggregate), they were of substantial value.

14. By charging personal expenses to the MTRB corporate credit card without making timely reimbursements, Lussier knowingly or with reason to know used his official position to secure for himself unwarranted privileges of substantial value not properly available to similarly situated individuals. By doing so, Lussier violated G.L. c. 268A, 23(b)(2) by using the MTRB corporate credit card for personal use and without timely reimbursement.

-Resolution-

In view of the foregoing violation of G.L. c. 268A by Lussier, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Lussier:

- (1) that Lussier pay to the Commission the sum of \$5,000 as a civil penalty for his conduct in violating G.L. c. 268A, §23(b)(2)²; and

¹ The MTRB had no written regulations, procedures, or internal controls governing the use of corporate credit cards by Lussier and senior staff.

² Lussier reimbursed the MTRB for the personal expenses, plus interest. Full restitution therefore has been made.

- (2) that Lussier waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

STATE ETHICS COMMISSION

July 2, 2002